



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3522

Introduced 2/24/2011, by Rep. Richard Morthland - Sandra M. Pihos

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501

from Ch. 95 1/2, par. 11-501

Amends the Illinois Vehicle Code. Provides that a fourth violation of provisions prohibiting driving while under the influence of alcohol, other drugs, intoxicating compound or compounds or any combination thereof that results in the death of another person is a Class 1 felony.

LRB097 06444 HEP 46526 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Section 11-501 as follows:

6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

7 Sec. 11-501. Driving while under the influence of alcohol,
8 other drug or drugs, intoxicating compound or compounds or any
9 combination thereof.

10 (a) A person shall not drive or be in actual physical
11 control of any vehicle within this State while:

12 (1) the alcohol concentration in the person's blood or
13 breath is 0.08 or more based on the definition of blood and
14 breath units in Section 11-501.2;

15 (2) under the influence of alcohol;

16 (3) under the influence of any intoxicating compound or
17 combination of intoxicating compounds to a degree that
18 renders the person incapable of driving safely;

19 (4) under the influence of any other drug or
20 combination of drugs to a degree that renders the person
21 incapable of safely driving;

22 (5) under the combined influence of alcohol, other drug
23 or drugs, or intoxicating compound or compounds to a degree

1 that renders the person incapable of safely driving; or

2 (6) there is any amount of a drug, substance, or
3 compound in the person's breath, blood, or urine resulting
4 from the unlawful use or consumption of cannabis listed in
5 the Cannabis Control Act, a controlled substance listed in
6 the Illinois Controlled Substances Act, an intoxicating
7 compound listed in the Use of Intoxicating Compounds Act,
8 or methamphetamine as listed in the Methamphetamine
9 Control and Community Protection Act.

10 (b) The fact that any person charged with violating this
11 Section is or has been legally entitled to use alcohol, other
12 drug or drugs, or intoxicating compound or compounds, or any
13 combination thereof, shall not constitute a defense against any
14 charge of violating this Section.

15 (c) Penalties.

16 (1) Except as otherwise provided in this Section, any
17 person convicted of violating subsection (a) of this
18 Section is guilty of a Class A misdemeanor.

19 (2) A person who violates subsection (a) or a similar
20 provision a second time shall be sentenced to a mandatory
21 minimum term of either 5 days of imprisonment or 240 hours
22 of community service in addition to any other criminal or
23 administrative sanction.

24 (3) A person who violates subsection (a) is subject to
25 6 months of imprisonment, an additional mandatory minimum
26 fine of \$1,000, and 25 days of community service in a

1 program benefiting children if the person was transporting
2 a person under the age of 16 at the time of the violation.

3 (4) A person who violates subsection (a) a first time,
4 if the alcohol concentration in his or her blood, breath,
5 or urine was 0.16 or more based on the definition of blood,
6 breath, or urine units in Section 11-501.2, shall be
7 subject, in addition to any other penalty that may be
8 imposed, to a mandatory minimum of 100 hours of community
9 service and a mandatory minimum fine of \$500.

10 (5) A person who violates subsection (a) a second time,
11 if at the time of the second violation the alcohol
12 concentration in his or her blood, breath, or urine was
13 0.16 or more based on the definition of blood, breath, or
14 urine units in Section 11-501.2, shall be subject, in
15 addition to any other penalty that may be imposed, to a
16 mandatory minimum of 2 days of imprisonment and a mandatory
17 minimum fine of \$1,250.

18 (d) Aggravated driving under the influence of alcohol,
19 other drug or drugs, or intoxicating compound or compounds, or
20 any combination thereof.

21 (1) Every person convicted of committing a violation of
22 this Section shall be guilty of aggravated driving under
23 the influence of alcohol, other drug or drugs, or
24 intoxicating compound or compounds, or any combination
25 thereof if:

26 (A) the person committed a violation of subsection

1 (a) or a similar provision for the third or subsequent
2 time;

3 (B) the person committed a violation of subsection
4 (a) while driving a school bus with persons 18 years of
5 age or younger on board;

6 (C) the person in committing a violation of
7 subsection (a) was involved in a motor vehicle accident
8 that resulted in great bodily harm or permanent
9 disability or disfigurement to another, when the
10 violation was a proximate cause of the injuries;

11 (D) the person committed a violation of subsection
12 (a) and has been previously convicted of violating
13 Section 9-3 of the Criminal Code of 1961 or a similar
14 provision of a law of another state relating to
15 reckless homicide in which the person was determined to
16 have been under the influence of alcohol, other drug or
17 drugs, or intoxicating compound or compounds as an
18 element of the offense or the person has previously
19 been convicted under subparagraph (C) or subparagraph
20 (F) of this paragraph (1);

21 (E) the person, in committing a violation of
22 subsection (a) while driving at any speed in a school
23 speed zone at a time when a speed limit of 20 miles per
24 hour was in effect under subsection (a) of Section
25 11-605 of this Code, was involved in a motor vehicle
26 accident that resulted in bodily harm, other than great

1 bodily harm or permanent disability or disfigurement,
2 to another person, when the violation of subsection (a)
3 was a proximate cause of the bodily harm;

4 (F) the person, in committing a violation of
5 subsection (a), was involved in a motor vehicle,
6 snowmobile, all-terrain vehicle, or watercraft
7 accident that resulted in the death of another person,
8 when the violation of subsection (a) was a proximate
9 cause of the death;

10 (G) the person committed a violation of subsection
11 (a) during a period in which the defendant's driving
12 privileges are revoked or suspended, where the
13 revocation or suspension was for a violation of
14 subsection (a) or a similar provision, Section
15 11-501.1, paragraph (b) of Section 11-401, or for
16 reckless homicide as defined in Section 9-3 of the
17 Criminal Code of 1961;

18 (H) the person committed the violation while he or
19 she did not possess a driver's license or permit or a
20 restricted driving permit or a judicial driving permit
21 or a monitoring device driving permit;

22 (I) the person committed the violation while he or
23 she knew or should have known that the vehicle he or
24 she was driving was not covered by a liability
25 insurance policy;

26 (J) the person in committing a violation of

1 subsection (a) was involved in a motor vehicle accident
2 that resulted in bodily harm, but not great bodily
3 harm, to the child under the age of 16 being
4 transported by the person, if the violation was the
5 proximate cause of the injury; ~~or~~

6 (K) the person in committing a second violation of
7 subsection (a) or a similar provision was transporting
8 a person under the age of 16; or ~~or~~

9 (L) the person in committing a fourth violation of
10 subsection (a) or similar provision, was involved in a
11 motor vehicle, snowmobile, all-terrain vehicle, or
12 watercraft accident that resulted in the death of
13 another person, when the violation of subsection (a)
14 was a proximate cause of the death.

15 (2) (A) Except as provided otherwise, a person
16 convicted of aggravated driving under the influence of
17 alcohol, other drug or drugs, or intoxicating compound or
18 compounds, or any combination thereof is guilty of a Class
19 4 felony.

20 (B) A third violation of this Section or a similar
21 provision is a Class 2 felony. If at the time of the third
22 violation the alcohol concentration in his or her blood,
23 breath, or urine was 0.16 or more based on the definition
24 of blood, breath, or urine units in Section 11-501.2, a
25 mandatory minimum of 90 days of imprisonment and a
26 mandatory minimum fine of \$2,500 shall be imposed in

1 addition to any other criminal or administrative sanction.
2 If at the time of the third violation, the defendant was
3 transporting a person under the age of 16, a mandatory fine
4 of \$25,000 and 25 days of community service in a program
5 benefiting children shall be imposed in addition to any
6 other criminal or administrative sanction.

7 (C) A fourth violation of this Section or a similar
8 provision is a Class 2 felony, for which a sentence of
9 probation or conditional discharge may not be imposed. If
10 at the time of the violation, the alcohol concentration in
11 the defendant's blood, breath, or urine was 0.16 or more
12 based on the definition of blood, breath, or urine units in
13 Section 11-501.2, a mandatory minimum fine of \$5,000 shall
14 be imposed in addition to any other criminal or
15 administrative sanction. If at the time of the fourth
16 violation, the defendant was transporting a person under
17 the age of 16 a mandatory fine of \$25,000 and 25 days of
18 community service in a program benefiting children shall be
19 imposed in addition to any other criminal or administrative
20 sanction.

21 (D) A fifth violation of this Section or a similar
22 provision is a Class 1 felony, for which a sentence of
23 probation or conditional discharge may not be imposed. If
24 at the time of the violation, the alcohol concentration in
25 the defendant's blood, breath, or urine was 0.16 or more
26 based on the definition of blood, breath, or urine units in

1 Section 11-501.2, a mandatory minimum fine of \$5,000 shall
2 be imposed in addition to any other criminal or
3 administrative sanction. If at the time of the fifth
4 violation, the defendant was transporting a person under
5 the age of 16, a mandatory fine of \$25,000, and 25 days of
6 community service in a program benefiting children shall be
7 imposed in addition to any other criminal or administrative
8 sanction.

9 (E) A sixth or subsequent violation of this Section or
10 similar provision is a Class X felony. If at the time of
11 the violation, the alcohol concentration in the
12 defendant's blood, breath, or urine was 0.16 or more based
13 on the definition of blood, breath, or urine units in
14 Section 11-501.2, a mandatory minimum fine of \$5,000 shall
15 be imposed in addition to any other criminal or
16 administrative sanction. If at the time of the violation,
17 the defendant was transporting a person under the age of
18 16, a mandatory fine of \$25,000 and 25 days of community
19 service in a program benefiting children shall be imposed
20 in addition to any other criminal or administrative
21 sanction.

22 (F) For a violation of subparagraph (C) of paragraph
23 (1) of this subsection (d), the defendant, if sentenced to
24 a term of imprisonment, shall be sentenced to not less than
25 one year nor more than 12 years.

26 (G) A violation of subparagraph (F) of paragraph (1) of

1 this subsection (d) is a Class 2 felony, for which the
2 defendant, unless the court determines that extraordinary
3 circumstances exist and require probation, shall be
4 sentenced to: (i) a term of imprisonment of not less than 3
5 years and not more than 14 years if the violation resulted
6 in the death of one person; or (ii) a term of imprisonment
7 of not less than 6 years and not more than 28 years if the
8 violation resulted in the deaths of 2 or more persons.

9 (H) For a violation of subparagraph (J) of paragraph
10 (1) of this subsection (d), a mandatory fine of \$2,500, and
11 25 days of community service in a program benefiting
12 children shall be imposed in addition to any other criminal
13 or administrative sanction.

14 (I) A violation of subparagraph (K) of paragraph (1) of
15 this subsection (d), is a Class 2 felony and a mandatory
16 fine of \$2,500, and 25 days of community service in a
17 program benefiting children shall be imposed in addition to
18 any other criminal or administrative sanction. If the child
19 being transported suffered bodily harm, but not great
20 bodily harm, in a motor vehicle accident, and the violation
21 was the proximate cause of that injury, a mandatory fine of
22 \$5,000 and 25 days of community service in a program
23 benefiting children shall be imposed in addition to any
24 other criminal or administrative sanction.

25 (J) A violation of subparagraph (D) of paragraph (1) of
26 this subsection (d) is a Class 3 felony, for which a

1 sentence of probation or conditional discharge may not be
2 imposed.

3 (K) A violation of subparagraph (L) of paragraph (1) of
4 this subsection (d) is a Class 1 felony.

5 (3) Any person sentenced under this subsection (d) who
6 receives a term of probation or conditional discharge must
7 serve a minimum term of either 480 hours of community
8 service or 10 days of imprisonment as a condition of the
9 probation or conditional discharge in addition to any other
10 criminal or administrative sanction.

11 (e) Any reference to a prior violation of subsection (a) or
12 a similar provision includes any violation of a provision of a
13 local ordinance or a provision of a law of another state or an
14 offense committed on a military installation that is similar to
15 a violation of subsection (a) of this Section.

16 (f) The imposition of a mandatory term of imprisonment or
17 assignment of community service for a violation of this Section
18 shall not be suspended or reduced by the court.

19 (g) Any penalty imposed for driving with a license that has
20 been revoked for a previous violation of subsection (a) of this
21 Section shall be in addition to the penalty imposed for any
22 subsequent violation of subsection (a).

23 (h) For any prosecution under this Section, a certified
24 copy of the driving abstract of the defendant shall be admitted
25 as proof of any prior conviction.

26 (Source: P.A. 95-149, eff. 8-14-07; 95-355, eff. 1-1-08;

- 1 95-400, eff. 1-1-09; 95-578, eff. 6-1-08; 95-778, eff. 8-4-08;
- 2 95-876, eff. 8-21-08; 96-289, eff. 8-11-09.)